

### **REMARKS**

Applicant would like to thank the Examiner for indicating that claim 42 is allowable and claims 9, 22, and 23 as being allowable if rewritten in independent form.

The Examiner has rejected claims 1-5, 10, 11, 16, 41, 45, 47, and 48 as anticipated by U.S. Patent No. 5,882,281 to Stearns et al. Applicant has cancelled claims 1-41, therefore rendering the rejection of those claims moot.

By this Amendment, claim 45 has been amended and in pertinent part recites “pedals being configured to move to any point within a predefined range of motion including a horizontal dimension and a vertical dimension.” The elliptical motion of the foot supporting member in Stearns et al. does not disclose, teach, or suggest “pedals being configured to move to any point within a predefined range of motion including a horizontal dimension and a vertical dimension.” The foot support members of Stearns et al. may only move in an elliptical motion and can not “move to any point within a predefined range of motion including a horizontal dimension and a vertical dimension.” Therefore, Stearns et al does not anticipate applicant’s claim 45, and applicant respectfully request this rejection be withdrawn.

The Examiner has rejected claim 48 as anticipated by the disclosure of Stearns et al. Claim 48 in relevant part recites “configuring the pedals for free motion to move to any point within a predefined range of motion including a horizontal dimension and a vertical dimension.” Stearns et al. does not disclose a method of configuring the its foot supporting members to move to any point within a predefined range of motion including a horizontal dimension and a vertical dimension. Stearns et al may be configured to move

in one or more elliptical paths, but not to any point in a predefined range of motion where that predefined range of motion includes a horizontal dimension and a vertical dimension. Therefore, Sterns et al does not anticipate applicant's claim 48, and applicant respectfully request this rejection be withdrawn.

Claim 47 depends from claim 45 and includes all the elements thereof. Applicant believes that claim 47 is similarly patentable over the Stearns et al. reference and respectfully requests withdraw of this rejection.

The Examiner has also rejected claims 1, 2, 7, 8, 10, 11, 13, 14, 41, 45, and 47 as being anticipated by U.S. Patent No. 5,536,225 to Neuberg et al. Applicant has cancelled claims 1-41 thus rendering the rejection with respect to those claims moot.

By this amendment claim 45 recites in pertinent part "a pair of pedals interconnected to the frame, the pedals being configured to move forwardly and rearwardly in a horizontal direction and up and down in a vertical direction to any point within a predefined range of motion including a horizontal dimension and a vertical dimension." Neuberg et al. does not disclose teach or suggest foot platforms that "move forwardly and rearwardly in a horizontal direction and up and down in a vertical direction to any point within a predefined range of motion." The foot platforms of Neuberg et al. are configured for pivotal side-to-side lateral motion and vertical motion along the pivoting swing arms 40 and 42, the foot platforms do not move forwardly or rearwardly. Therefore, Neuberg et al. does not anticipate claim 45 and applicant respectfully requests that this rejection be withdrawn.

Claim 47 depends from claim 45 and includes the elements thereof. Applicant believes that this claim is similarly patentable over the Neuberg et al. reference and respectfully request withdraw of this rejection.

Claim 15 and 45-47 are rejected as anticipated by U.S. Patent No. 5,595,554 to Maresh. Claim 15 has been cancelled thus rendering the rejection moot as it pertains to claim 15. Applicant must respectfully traverse this rejection with respect to claims 45-47 because Maresh does not disclose an exercise device capable of the pedal movement of claim 45.

Claim 45 recites in pertinent part: “a pair of pedals interconnected to the frame by a pedal support assembly having a vertical guide member coupled with a horizontal guide member, the pedals being configured to move forwardly and rearwardly in a horizontal direction and up and down in a vertical direction to any point within a predefined range of motion including a horizontal dimension and a vertical dimension.” The exercise device of Maresh includes pedals that may travel in all three spacial dimensions, but each pedal may only travel along a fixed path through all three spacial dimensions. The pedals of Maresh cannot move substantially vertically or substantially horizontally, and can only move along a predefined curved path. The only changes in the pedals movements are that the pedals are moving in the same direction and then different directions on the predefined paths. In light of the above remarks, claim 45 and dependent claims 46 and 47, are not anticipated by Maresh and applicant respectfully requests that these rejections be withdrawn.

Claims 43 and 44 are rejected as anticipated by U.S. Patent No. 5,792,029 to Gordon. Applicant must respectfully traverse this rejection because Gordon does not disclose an exercise device capable of the pedal movement of independent claims 43 and 44.

Claim 43 recites in pertinent part “the pedal support assembly includes vertical guides coupled with horizontal guides.” Gordon discloses an exercise apparatus that includes a first and second elongate support members pivotally mounted upon a support frame and configured to provide foot supports with a combination of forward/backward and pivotal movement. Gordon does not disclose, teach, or suggest an exercise apparatus including “the pedal support assembly includes vertical guides coupled with horizontal guides.” Therefore, Gordon does not anticipate applicant’s claim 43, and applicant respectfully requests this rejection be withdrawn.

Claim 44 recites in pertinent part “a horizontal guide configured to guide horizontal motion of the pedal, and a vertical guide configure guide vertical motion of the pedal coupled with the horizontal guide.” Gordon discloses an exercise apparatus that includes a first and second elongate support members pivotally mounted upon a support frame and configured to provide foot supports with a combination of forward/backward and pivotal movement. Gordon does not disclose, teach, or suggest an exercise apparatus including “a horizontal guide configured to guide horizontal motion of the pedal, and a vertical guide configure guide vertical motion of the pedal coupled with the horizontal guide.” Therefore, Gordon does not anticipate applicant’s claim 44, and applicant respectfully requests this rejection be withdrawn.

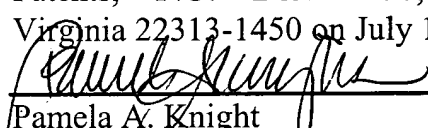
The Examiner has rejected claims 5, 6, 8, 12, and 17 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-41 have been cancelled without prejudice, rendering this rejection moot.

In view of the foregoing, it is respectfully asserted that all of the claims pending in the application, as amended, are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 224-6655.

Reconsideration of the application and early allowance of all claims is respectfully requested.

CERTIFICATE OF MAILING


I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop NON-FEE AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on July 11, 2003.

  
Pamela A. Knight

Date of Signature: July 11, 2003

Respectfully submitted,

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